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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,364	11/21/2003	Chris A. Peirson	41722-P001US	3590

7590 06/23/2009
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EXAMINER

TROTTER, SCOTT S

ART UNIT	PAPER NUMBER
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3694

MAIL DATE	DELIVERY MODE
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06/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/719,364	Applicant(s) PEIRSON ET AL.	
	Examiner SCOTT S. TROTTER	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the reply filed March 18, 2009. This action is **FINAL**.

Drawings

2. The following informality has been noted and requires correction in response to this Office Action. Most of the figures are hand numbered and some of the drawing item numbering is also hand numbered.

The applicants request to hold this off until allowance is noted while this paragraph will continue to appear as a reminder in future office actions it will only be an issue on allowance.

Applicant's Arguments

3. Applicant's arguments were considered but were not persuasive.
4. Regarding applicant's arguments about Hall not teaching specific aspects of the claims the examiner respectfully disagrees.
5. Regarding "through authorized parties" the buyer, seller, banks, and insurance companies are connecting to the server computer through networks which they are making authorized parties.
6. Regarding "computer program products on the server computer" when computers do things they do them by running programs so a server computer doing something is running a computer program to do it.
7. Regarding presenting for signature. *See Hall column 4 lines 43-61*. Removing contingencies which requires the other parties authorization are needed to avoid

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canceling the transaction. *See Hall column 5 lines 49-58.* Passing due diligence conditions allows funding to be released. *See Hall column 19 lines 59- column 20 line*

3. Shows that deeds are signed.

8. Regarding “dynamically adding”. *See Hall column 4 lines 26-42 and column 8 lines 27-36.* Amending closing conditions is dynamically adding to them.

9. Regarding “electronically funding” *See Hall column 21 lines 17-20 and Hall column 7 lines 21-30.* Since they can receive funds with electronically accessible trust account that is where they are expecting to receive them.

Claim Rejections - 35 USC § 101 Utility

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 1-18 are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *In re Bilski et al*, 88 USPQ 2d 1385 CAFC (2008); *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

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An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps fail the first prong of the new Federal Circuit decision since they are not tied to a machine and can be performed without the use of a particular machine. Examiner's Note: The structure mentioned in the claims preamble being brought into the main body of the claims should correct this problem.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

13. Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Hall et al. (U.S. Patent 7,085,735 B1, hereafter Hall).

As per claim 1 Hall teaches:

A method of managing the closing of a real property transaction using a networked computer system, wherein the computer system includes one or more client computers, a server computer, and a network which interfaces the one or more client computers and the server computer, (*See Hall figure 1A.*) the method comprising: accessing through a first authorized party, one or more computer program products on the server computer from one of the one or more client computers, to manage the closing of a real property transaction; (*See Hall column 4 lines 26-42.*)

entering, through the first authorized party only, a first group of data into a settlement statement used in a real property transaction; (*See Hall column 4 lines 26-42.*)

accessing through a second authorized party, the one or more computer program products on the server computer from one of the one or more client computers; (*See Hall column 4 lines 26-42.*)

entering, through the second authorized party only, a second group of data into the settlement statement; (*See Hall column 4 lines 26-42.*)

authorizing by the first party the second group of data entered by the second party; (*See Hall column 4 lines 26-42.*)

wherein the real property transaction will be presented for funding and the settlement statement will be presented for signature only if the first party authorizes the second group of data entered into the settlement statement by the second party. (*See Hall column 4 lines 43-61.* Removing contingencies which requires the other parties authorization are needed to avoid canceling the transaction. *See Hall column 5 lines*

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49-58. Passing due diligence conditions allows funding to be released. *See Hall column 19 lines 59- column 20 line 3.* Shows that deeds are signed.)

As per claim 2 Hall teaches:

The method of claim 1, wherein the first group of data may be entered manually or through importing. (*See Hall column 4 lines 26-42.* The data is entered by filling out a questionnaire, which is manual entry of the data.)

As per claim 3 Hall teaches:

The method of claim 1, further comprising the step of notifying the first party and the second party of progress in the real property transaction and any changes in the settlement statement. (*See Hall Figures 3, 5, 7, 8B, 9, 10, 11, 12, and 15.* Notification is sent of any problems so they can be dealt with success is recorded where it can be viewed.)

As per claim 4 Hall teaches:

The method of claim 1, further comprising the step of auditing data entered by the first party or the second party. (*See Hall column 4 lines 26-42.* The buyer and seller must agree on terms including how a term can be satisfied for example the passage of time or approval of the other or a third party.)

As per claim 5 Hall teaches:

The method of claim 1, wherein if the real property transaction is to be funded, further comprising the step of comparing an amount of funds requested on the settlement statement with any amounts of funds to be received or disbursed, and noting any discrepancies in the amounts. (*See Hall column 20 lines 16-46.* The "Funds

Required to Close” show the monetary discrepancies that would keep a transaction from closing.)

As per claim 6 Hall teaches:

The method of claim 1, further comprising the steps of:
accessing through a third authorized party, the one or more computer program products on the server computer from one of the one or more client computers; (*See figure 1A*) receiving confirmation, through the third party, that the first party authorizes the data entered into the settlement statement or authorizes funding of the real property transaction; (*See Hall column 20 lines 66- column 21 line 30.*) and funding, through the third party, the real property transaction if the third party receives said confirmation. (*See Hall column 20 lines 66- column 21 line 30.* Standard conditions must be met for the transaction to be funded.)

As per claim 7 Hall teaches:

The method of claim 6, wherein if said confirmation is received, the funding is transmitted electronically using a send computer program product on one of the one or more client computers, accessed by the third party, and a receive computer program product on a second of the one or more client computers, accessed by the second party. (*See Hall column 21 lines 17-20.*)

As per claim 8 Hall teaches:

The method of claim 6, further comprising the steps of:
placing, through the third party, conditions on the funding that the second party must satisfy; (*See Hall column 21 lines 13-17.*) and

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rejecting, through the third party, the funding if the conditions are not satisfied. (*See Hall column 21 lines 51-56 and column 4 line 43-47.*)

As per claim 9 Hall teaches:

The method of claim 6, further comprising the step of:
auditing, prior to funding, the settlement statement. (*See Hall column 20 lines 16-46 and column 23 lines 1-14.* Calculating the amount to close and checking the trust account amounts are auditing the settlement statement and can take place both before or after funding.)

As per claim 10 Hall teaches:

The method of claim 6 further comprising the step of auditing, after funding, the settlement statement versus the amount funded. (*See Hall column 20 lines 16-46 and column 23 lines 1-14.* Calculating the amount to close and checking the trust account amounts are auditing the settlement statement and can take place both before or after funding.)

As per claim 11 Hall teaches:

The method of claim 1, wherein the first party and the second party can respectively dynamically grow the first and second groups of data while the data is entered into the settlement statement. (*See Hall column 4 lines 26-42.*)

As per claim 12 Hall teaches:

The method of claim 7, wherein the third party and the second party are automatically notified of a change in status of the funding. (*See Hall column 5 lines 59-63.*)

As per claim 13 Hall teaches:

A method of managing the closing of a real property transaction using a networked computer system, wherein the computer system includes one or more client computers, a server computer, and a network which interfaces the one or more client computers and the server computer, (*See Hall figure 1A.*) the method comprising: accessing through a first authorized party, one or more computer program products on the server computer from one of the one or more client computers, to manage the closing of a real property transaction; (*See Hall column 4 lines 26-42.*)

entering, through the first authorized party only, a first group of data into a settlement statement used in a real property transaction, wherein the first party can dynamically grow the first group of data while the data is entered into the settlement statement; (*See Hall column 4 lines 26-42 and column 8 lines 27-36.* Amending closing conditions is dynamically adding to them.)

accessing through a second authorized party, the one or more computer program products on the server computer from one of the one or more client computers; (*See Hall column 4 lines 26-42.*)

entering, through the second authorized party only, a second group of data into the settlement statement, wherein the second party can dynamically grow the second group of data while the data is entered into the settlement statement; (*See Hall column 4 lines 26-42 and column 8 lines 27-36.* Amending closing conditions is dynamically adding to them.)

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authorizing by the first party the second group of data entered by the second party; (See *Hall column 4 lines 26-42.*)

accessing through a third authorized party, the one or more computer program products on the server computer from one of the one or more client computers; (See *Hall figure 1A and column 4 lines 26-42.* The internet is a third party through which the computers are accessed.)

receiving confirmation, through the third party, that the first party authorizes said data entered into the settlement statement or authorizes funding of the real property transaction; (See *Hall column 20 lines 66-column 21 line 30.*) and electronically funding, through the third party, the real property transaction if the third party receives said confirmation. (See *Hall column 21 lines 17-22.*)

As per claim 14 Hall teaches:

The method of claim 13, further comprising the step of auditing data entered by the first party or the second party. (See *Hall column 4 lines 26-42.* The buyer and seller must agree on terms including how a term can be satisfied for example the passage of time or approval of the other or a third party.)

As per claim 15 Hall teaches:

The method of claim 13, wherein if said confirmation is received, the funding is transmitted electronically using a send computer program product on one of the one or more client computers, accessed by the third party, and a receive computer program product on a second of the one or more client computers, accessed by the second

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Party. (See *Hall column 21 lines 17-20 and Hall column 7 lines 21-30*. Since they can receive funds with electronically accessible trust account that is where they are expecting to receive them.)

As per claim 16 Hall teaches:

The method of claim 13, further comprising the steps of:
placing, through the third party, conditions on the finding that the second party must satisfy; (See *Hall column 21 lines 13-17*.) and
rejecting, through the thud party, the funding if the conditions are not satisfied. (See *Hall column 21 lines 51-56 and column 4 line 43-47*.)

As per claim 17 Hall teaches:

The method of claim 13, further comprising the step of:
auditing, prior to funding, the settlement statement. (See *Hall column 20 lines 16-46 and column 23 lines 1-14*. Calculating the amount to close and checking the trust account amounts are auditing the settlement statement and can take place both before or after funding.)

As per claim 18 Hall teaches:

The method of claim 13 further comprising the step of auditing, after funding, the settlement statement versus the amount funded. (See *Hall column 20 lines 16-46 and column 23 lines 1-14*. Calculating the amount to close and checking the trust account amounts are auditing the settlement statement and can take place both before or after funding.)

As per claims 19 and 20 see the rationales of claims 1 and 2 since they are parallel system claims to the method of claims 1 and 2.

As per claim 21 Hall teaches:

The system of claim 19, further comprising:

a third client computer, (*See figure 1A*) which interfaces with the server computer through a network, for accessing the one or more computer program products on the server computer to enable a third authorized party only to receive confirmation that the first party authorizes the data entered into the settlement statement or authorizes funding of the real property transaction; (*See Hall column 20 lines 66- column 21 line 30.*) and means for electronically funding, through the third client computer, the real property transaction if the third party receives said confirmation. (*See Hall column 20 lines 66- column 21 line 30. Standard conditions must be met for the transaction to be funded.*)

As per claim 22 Hall teaches:

The method of claim 21, further comprising:

a send computer program product on the third client computer;
a receive computer program product on the second client computer; and
wherein if said confirmation is received, the funding can be transmitted electronically using the send computer program product on the third client computer and a receive computer program product on the second client computer. (*See Hall column 21 lines 17-20.*)

As per claim 23 Hall teaches:

The system of claim 19, wherein the first party and the second party can respectively dynamically grow the first and second groups of data while the data is entered into the settlement statement. (*See Hall column 4 lines 26-42.*)

As per claim 24 Hall teaches:

One or more program storage media readable by a machine and containing instructions for performing the method contained in claim 1. (*See Hall column 9 lines 67-column 10 line 4.*)

As per claim 25 Hall teaches:

One or more program storage media readable by a machine and containing instructions for performing the method contained in claim 13. (*See Hall column 9 lines 67-column 10 line 4.*)

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- Salzmann et al. U.S. Patent 6,711,554

2. Any inquiry concerning this communication from the examiner should be directed to Scott S. Trotter, whose telephone number is 571-272-7366. The examiner can normally be reached on 8:30 AM – 5:00 PM, M-F.

3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell, can be reached on 571-272-6712.

4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5. The fax phone number for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300 (Official Communications; including After Final
Communications labeled "BOX AF")

(571) 273-6705 (Draft Communications)

sst
June 21, 2009

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694